

REMARKS

Claims 1-10 are pending. Claims 2-4 and 8-10 are withdrawn from consideration as being drawn to a nonelected invention. Claims 1 and 5-7 were provisionally rejected under the doctrine of obviousness-type double patenting. Claims 1 and 5-7 were variously rejected under 35 U.S.C. § 102(e).

With respect to abandonment of this application, Applicants have not dedicated or abandoned any unclaimed subject matter and moreover have not acquiesced to any rejections and/or objections made by the Patent Office. Applicants expressly reserve the right to pursue prosecution of any presently excluded subject matter or claim embodiments in one or more future continuation and/or divisional application(s).

Provisional Rejection under the Doctrine of Obviousness-type Double Patenting

Claims 1 and 5-7 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1, 6, 11, 14 and 15 of U.S. Pat. Application No. 09/802,686 (Pub No. US 2001/0046967). Applicants respectfully traverse this provisional rejection. The Examiner states that this is a provisional rejection because the conflicting claims have not yet been patented. Accordingly, Applicants will respectfully defer a response to this rejection until patentable subject matter has been identified in one of the applications.

Rejections under 35 U.S.C. § 102(e)

Claims 1 and 5-7 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Krieg *et al.* (U.S. Pat. No. 6,218,371 B1). Claims 1 and 5-7 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Krieg *et al.* (U.S. Pat. Application Pub. No. US 2003/0050263 A1). Applicants respectfully traverse these rejections.

Applicants submit that the claimed invention is not obvious in view of the cited references for reasons of record. However, the present application is being abandoned in favor of a continuation application.

CONCLUSION

As stated above, Applicants are electing to abandon the present application in favor of pursuing the subject matter contained therein in a continuation application. However, such action does not constitute an acquiescence in any of the rejections and/or objections made in the outstanding Office Action.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 377882001600. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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